IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.30195 of 2008
MD. WAKIL
Versus
THE STATE OF BIHAR

02/ 11.08.2008 Heard.

There is recovery of 15 kg. of heroin, said to be made from the joint house of the present petitioner and the other accused. The petitioner is in custody since 4.7.2004.

The learned counsel for the petitioner stressed that the trial of the petitioner has not yet been taken up. The court believes that it is for the court to find out as to what should be period of custody of an accused for a particular offence. In the present case the trial does not appear to have yet been started but the fact remains that the accused should not be kept in custody for an indefinite period in case the trial not having been started within a considerable period of time. The courts have to understand that we are not in pre-constitutional era. We have a constitution and that guarantees a citizen the right of trial and the courts are to see that the trials of accused, who are in custody, are held in a considerable period of time. In the set up of our democracy, fair and speedy trial

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is supposed to be fundamental right of a person accused of an offence. The courts have to ensure that liberty of a person is not curtailed due to dearth of Judges and pendency of cases. The Special Judge, Sasaram is directed to ensure conclusion of trial either by hearing the case himself or by transferring it to any other competent court within a period of one year and three months from the date of receipt/production of a copy of the present order.

The petition is dismissed with the above observations and directions.

DKS/ **(Dharnidhar Jha,J)**

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